IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Jagdishlal v. State of Rajasthan & Anr.

S.B.CIVIL WRIT PETITION NO.5527/1994
under Article 226 of the Constitution of India.

Date of Order : 1st September, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Anil Bhandari, for the petitioners.
Mr. B.L.Tiwari, Dy. Govt. Advocate.

BY THE COURT :

By this petition for writ a challenge is given by the petitioner to the order dated 13.11.1992 passed by the Additional Director (Administration), Department of Medical & Health Services, Government of Rajasthan, Jaipur. By the order impugned dated 13.11.1992 the respondents allowed the pay scale of Rs.1640-2900 to the petitioner on completion of 27 years of services. The petitioner by this petition for writ has claimed to be treated as Sector Supervisor under the Rajasthan Medical and Health Subordinate Service Rules, 1965 (hereinafter referred to as “the Rules of 1965”) and then to allow selection grades to

him in accordance with Government of Rajasthan notification dated 25.1.1992.

The facts leading to present petition are that the petitioner entered in the services of the respondent State being appointed as Surveillance worker under an order dated 10.7.1960. By an another order dated 29.10.1960 he was ordered to work as Malaria Surveillance Inspector. The petitioner was also allowed to be fixed in the pay scale of Rs.90-175 under the order dated 29.10.1960.

The Governor of Rajasthan while exercising powers under proviso to Article 309 of the Constitution of India framed the Rules of 1965 regulating the recruitment to posts in and the conditions of service of persons appointed to the Rajasthan Medical and Health Subordinate Service. An amendment was introduced in the Rules of 1965 in the year 1982 whereby a new cadre of Sector Supervisors was created under the Rules of 1965 by merging the post of Malaria Surveillance Inspector, Vaccination Supervisor and Family Planning-cum-Health Assistant. Under the Rules of 1965 the Sector Supervisor is provided an avenue for promotion to the post of Malaria Inspector. The Malaria Inspector is further having an avenue for promotion to the post of Assistant Malaria Officer (District Public Health Supervisor) and then to the post of Senior Assistant

Malaria Officer (Senior District Public Health Supervisor). The avenue for promotion as referred above is given below in tabular form with the pay scale attached to the post concerned:-

1.Sector Supervisor	pay scale Rs.975-1720 (Scale No.7)
2.Malaria Inspector	pay scale Rs.1200-2050 (Scale No.9)
3.Asstt.Malaria Officer(District Public Health Supervisor)	pay scale Rs.1640-2900 (Scale No.13)
4.Senior Assistant Malaria Officer (Senior District Health Supervisor)	pay scale Rs.2000-3200 (Scale No.17)

On creation of cadre of Sector Supervisors the petitioner too was taken in that cadre and by an order dated 6.11.1982 (Ex.4) he was ordered to work under the Urban Malaria Scheme in District Jodhpur. A seniority list pertaining to the Sector Supervisors was also issued wherein the name of the petitioner was shown at Sr.No.43. The petitioner, as he was working in Urban Malaria Scheme under the order dated 6.11.1982, was designated as Urban Malaria Inspector though no post with such nomenclature exists under the Rules of 1965. The respondents by order impugned dated 13.11.1992 allowed the pay scale of Rs.1640-2900 on

completion of 27 years of services as prescribed under Government of Rajasthan notification dated 25.1.1992.

The contention of counsel for the petitioner is that on completion of 27 years of service he is required to be fixed in the pay scale of Rs.2000-3200.

A reply to the writ petition is filed on behalf of the respondents stating therein that the petitioner was not working as Sector Supervisor, therefore, he cannot claim the pay scales which are attached to the posts in channel of promotion related to Sector Supervisors. It is emphasised b the respondents that the petitioner on his placement in the cadre of Sector Supervisors submitted a representation (Anx.R/1) to delete him from the seniority list pertaining to the Sector Supervisors. According to the respondents the petitioner was working as Urban Malaria Inspector, a post in isolation which is having no promotion avenues, therefore, the petitioner is not entitled for selection grades under the order dated 25.1.1992.

Heard counsel for the parties.

The claim of the petitioner with regard to holding of post of Sector Supervisor is denied by the respondents while admitting that at the time of creation of cadre of Sector Supervisors by

amalgamation of post of Malaria Surveillance Inspector, Vaccination Supervisor and Family Planning-cum-Health Assistant he was placed in the cadre of Sector Supervisors. The stand taken by the respondents is that the petitioner was brought out from the cadre of Sector Supervisors at his own request and was posted as Urban Malaria Inspector. I am of the considered opinion that the stand taken by the respondents is absolutely misconceived. The petitioner was taken in the cadre of Sector Supervisor and by an order Ex.4 he was ordered to work under the Urban Malaria Scheme in District Jodhpur. Mere placement under the Urban Malaria Scheme with a nomenclature of Urban Malaria Inspector does not mean that the petitioner was brought out from the cadre of Sector Supervisor.

It is pertinent to note that under the Rules of 1965 there is no post with the nomenclature of Urban Malaria Inspector. The petitioner actually was holding the post of Sector Supervisor and was ordered to work in Urban Malaria Scheme, wherein the post held by the petitioner appears to be called as Urban Malaria Inspector. The petitioner was certainly working in Urban Malaria Scheme and the post occupied by him was of Urban Malaria Inspector, but this does not mean that the petitioner was de-cadred. The petitioner for all purposes was in the cadre of Sector Supervisor and he could not be brought out from that

cadre merely for the reason that he was working under the Urban Malaria Inspector. The petitioner, therefore, is entitled to be treated as Sector Supervisor under the Rules of 1965. He is also entitled for getting selection grades in accordance with the channel of promotion available to the Sector Supervisor under the Rules of 1965.

Accordingly this petition for writ is allowed. The respondents are directed to treat the petitioner as Sector Supervisor ad then to allow the selection grades in accordance with the notification dated 25.1.1992. The respondents are also required to modify the order Anx.2 dated 13.11.1992 in the terms of direction above.

The parties are to bear their own costs.

(GOVIND MATHUR),J.

kkm/ps.